IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1678 of 2007()

CRIME NO.146/07 OF PEERUMED POLICE STATION.

PETITIONER: ACCUSED

JOSEPH, AGED 51 YEARS,
S/O JOHN, AMBALATHUNKAL, KURISSUMOODU P.O.,
CHANGANASSERY.

BY ADV. SRI.L.LINTON
SRI.A.RASHID
SRI.MATHEW SUNNY
SRI.PRADEEP JOY

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING S.I. OF POLICE, PEERUMED
POLICE STATION.

BY P.P. SRI. JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.1678 OF 2007

Dated this the 24th day of May, 2007

ORDER

The petitioner faces indictment in a prosecution, inter alia, under Sec.3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. According to him, he is absolutely innocent. He is unable to approach this Court and seek directions under Sec.438 of the Cr.P.C. in view of the bar under Sec.18 of the said Act. The petitioner is willing to surrender before the learned Magistrate and seek bail; but the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In view of the fact that the offence is triable exclusively by the Special Court (Sessions Court), the petitioner apprehends that the learned Magistrate may not consider his application for bail on merits. It is, in these circumstances, prayed that appropriate directions under Sec.482 of the Cr.P.C. may be issued.

2. I do not find any reason to issue any specific or special directions in favour of the petitioner under Sec.482 of the Cr.P.C. Every court is obliged to consider the application for bail on merits, in accordance with law and expeditiously. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. This Court has time and again repeated that the Magistrate cannot abdicate his power and responsibility to consider an application for bail by a person facing allegations under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on the sole ground that the offence is triable by a Sessions Court (Special Court). In the decisions reported in **Ali v. State of Kerala (**2000 (2) K.L.T. 280); **Shanu v. State of Kerala** (2000 (3) K.L.T. 452); **Krishnakumar v. State of Kerala** (2005 (1) K.L.D. (Cri) 42 and **P.P. Kader v. State of Kerala** (2005 (1) K.L.D. (Cri) 250) this proposition has been repeated. I have no reason to assume that the learned Magistrate is not aware of the law or will not follow the law meticulously.

4. In the result, this Crl.M.C. is dismissed; but with the

observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge